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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,092	09/12/2003	Justin Lee Wicker	BLBL121582	6590
26389	7590	05/11/2005	EXAMINER	
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347			CHAPMAN, JEANETTE E	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 05/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/661,092	WICKER, JUSTIN LEE	
	<b>Examiner</b>	<b>Art Unit</b>	
	Chapman E Jeanette	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 21 January 2005.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-20 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

**35 USC 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feigenbaum '314 in view of Maguire ( 5150485). Feigenbaum discloses an anchoring device for securing a cover to a ground comprising:

- a body 12 /14 having an upper end portion 12 and a lower end portion 14 which are integral with the body and remote from each other;
- the upper end of the body includes an integral first feature forming a first half of a clamp; see annotations on patent copy;
- the lower end of the body includes an integral second feature forming a stake; the stake is at the lower end of the body and configured to secure the body to the ground;
- A third feature forming the second half of the clamp; the third feature is not integral with the body but engages the body at a position opposite the first half of the anchoring clamp; the first and second halves of the clamp cooperate to secure the cover to the body.
- The anchoring device includes a biasing mechanism that exerts a force which biases the first and third features together to provide a clamping force for the anchoring clamp;

- The third feature is configured of two or more biasing parts/mechanisms 30/34/36 and 44/46/48 that engage the body at a position opposite the first half of the clamp and cooperate with the first half of the clamp
- The body includes a tail 14;
- The second half of the anchoring clamp is hingedly attached to the body opposite the first half of the clamp; the pivot point 34 of the hinge is positioned within the upper end portion of the body remote from the second feature of forming the stake;
- The first half of the clamp includes protrusions 32 that mate with the second half of the clamp 18; the protrusions are teeth 32; it would have been obvious to make an clip with mating upper and lower teeth as conventional alligator clips include the above structure for a stronger holding force;
- The body includes a cavity 52 to accept material 58 that adds weight to the body to further secure the body to the ground; see figures 8 and 7

The above elements are not configured to form a living creature. However, the beach blanket anchor of Maguire. Maguire shows a living creature with legs. It would have been obvious to one of ordinary skill in the art to modify Feigenbaum to include a body form of a living creature as taught by the secondary reference in order to provide aesthetic appeal to the device. The particular parts of the living creature performing the functional aspects of the clamp have been considered a matter of choice; this choice has no significance

the function and overall structure of the device. One of ordinary skill in the art would have appreciated coordinating the functional features with the parts of the living creature in order to more readily emulate the actual living creature without the anchor and clamping structure taking from the actual appearance of the device.

Hook and loop material is commonly employed over conventional fasteners because of the inherent adjustability and fastening features. Further, one of ordinary skill in the art would have appreciated employing VELCRO over conventional fastener as the hook and loop material is less harmful than the sharp teeth of Feigenbaum.

claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feigenbaum '314 in view of Maguire ( 5150485) as applied to claim 1 and further in view of Griffiths et al (5832672). Feigenbaum lacks the second feature including a hook and the second feature forming the stake is configured in two or more parts positioned at the end of the body; the two or more parts forming separate stakes that are configured to secure the body to the ground. Griffiths et al shows a beach blanket anchor device including a hook 74 and the second feature forming the stake is configured in two or more parts 56/58 positioned at the end of the body; the two or more parts forming separate stakes 56/58 that are configured to secure the body to the ground. It would have been obvious to one of ordinary skill in the art to modify Feigenbaum to include the recited stake as shown by Griffiths et al in order to provide a

stronger attachment to the ground for the anchor. For the limitations of claim 20 see obviousness rational above.

#### ***RESPONSE TO ARGUMENTS***

Applicant's arguments have been considered but are not deemed persuasive. Applicant argues that the claims are not properly combined neither has the rejection set forth a *prima facie* case of obvious ness. Applicant argues the use of Maguire is for above ground. However, Maguire is not cited for its specific manner of use ; this reference is shown for its teaching of the figurine or the living creature configuration with legs used to anchor a blanket. As seen by the cited art on PTO 892, anchor's for blankets and towels are made employing a variety of anchoring means and a variety of shapes and sizes. It is common in the mechanical arts to impart various types of decorative effects to add aesthetic appeal. There are also various ways to impart the living creature design into the device to maintain the function of the device while concealing the main structure of the device. Hence, no significance in function or optimal form of aesthetic appeal is found in forming a stake from a natural part or appendage of a living creature figurine design. This method or manner of incorporating the figurine into the design is viewed as an optional manner to incorporate the living creature figurine into the overall design of the anchor. Combining the teaching of Feigenbaum with that of Maguire provides an anchor with a stake and clip and other recited features while providing one with aesthetic appeal. Again how the design of the living creature is incorporated into the design of the anchor has been considered a matter of choice; one of ordinary skill in the art would have appreciated any type of

incorporation capable of concealing the main body of the anchor while having aesthetic appeal and providing the function of the anchor. Maguire shows the anchor concealed while providing aesthetic appeal and the function of the clip is maintained.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E Jeanette whose telephone number is 703-308-1310. The examiner can normally be reached on Mon.-Fri, 8:30-6:00, every other fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman Carl can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Handwritten signature of Jeanette Chapman in black ink. The signature is fluid and cursive, with 'Jeanette' on the top line and 'Chapman' on the line below. To the right of the signature, the text 'Jeanette Chapman' is printed in a smaller, sans-serif font, followed by 'Primary Examiner' in an even smaller font.